

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

**December 14, 2021 at 2:00 p.m.**

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1.	<a href="#">21-22511</a> -C-13	JOANNE ASPIRAS	CONTINUED MOTION TO DISMISS CASE
	<a href="#">RDG</a> -2	Peter Cianchetta	11-8-21 [ <a href="#">27</a> ]

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 15 days' notice was provided. Dkt. 30.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
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The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on September 14, 2021.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 23, 24.

Failure to confirm a plan constitutes evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion to

**December 14, 2021 at 2:00 p.m.**

Dismiss is granted, and the case is dismissed,  
the court having found that dismissal, and not  
conversion, is in the best interest of  
creditors and the Estate.

**No Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f) (2) procedure which requires 14 days' notice. The Proof of Service shows that 18 days' notice was provided. Dkt. 43.

**The Motion to Dismiss is XXXXX**

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on August 16, 2021.

The debtor filed a Response representing that no amended plan was filed because the debtor was in the process of objecting to three proofs of claim. Those Objections have been filed and are set for hearing November 23, 2021. The debtor argues an plan will depend on the outcome of those Objections.

**DISCUSSION**

A review of the docket shows the debtor's Objections were all sustained. Dkts. 70-75.

At the hearing, xxxxxxxxxxxxxxxx

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that xxxxxxxxxxxx

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 18 days' notice was provided. Dkt. 81.

**The Motion to Dismiss is granted, and the case is dismissed.**

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on August 16, 2021.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 70, 71.

The Motion also argues debtor is \$200.00 delinquent in plan payments, which is supported by declaration. Dkt. 80.

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.